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UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 VIRGINIA PELLEGRINI, Trustee of the  
 13 Mario J. and Virginia E. Pellegrini Trust,  
 14 and VIRGINIA PELLEGRINI, an  
 individual,

15 Plaintiffs,

16 v.

17 TECHNICHEM, INC., a California  
 corporation, MARK J. NG, an individual;  
 18 STEPHEN S. TUNG, an individual;

19 Defendants.

Case No. 07-CV-02497-CRB

**PLAINTIFFS' DECLARATION  
REGARDING DTSC ENFORCEMENT  
ACTIONS AGAINST DEFENDANTS FOR  
SITE INVESTIGATION AND  
REMEDIATION**

Date: November 30, 2007  
 Time: 8:30 am  
 Courtroom: 8, 19<sup>th</sup> floor  
 Judge: Honorable Charles R. Breyer

20  
 21 Plaintiffs submit the following exhibits, attached to the Declaration of William D.  
 22 Wick below, in accordance with the Court's Order following the Case Management  
 23 Conference on October 26, 2007.

24 The exhibits are documents reflecting enforcement actions taken by the California  
 25 Department of Toxic Substances Control in that agency's efforts to get Defendants to  
 26 perform a site investigation and cleanup on Plaintiffs' property at 4245 Halleck Street in  
 27 Emeryville, California ("the Property").  
 28

## **DECLARATION OF WILLIAM D. WICK**

I, William D. Wick, hereby declare:

4       1. I am a partner of Wactor & Wick LLP, the attorneys of record for Plaintiffs  
5 Virginia Pellegrini and Virginia Pellegrini, Trustee of the Mario J. and Virginia E. Pellegrini  
6 Trust.

7       2. Attached as Exhibits 1 through 4 are true and correct copies of documents  
8 relating to enforcement actions taken by the Department of Toxic Substances Control  
9 (DTSC) relating to DTSC's efforts to get Defendants to perform the investigation and  
10 remediation of the Property:

Exhibit 1: DTSC Summary of Violations dated May 7, 1998

13 DTSC inspected Defendants' operations in 1998 and prepared this summary of  
14 Defendants' violations of the Hazardous Waste Control Law.

## Exhibit 2: Motion to Enforce Partial Consent Decree and Seek Penalties

On November 13, 2002, DTSC filed a Motion to Enforce Partial Consent Decree and Seek Penalties for violations occurring between October 2000 and May 2002.

### Exhibit 3: Stipulated Final Judgment

On December 17, 2003, DTSC filed a Stipulated Final Judgment against Technichem, Inc. and Mark Ng. The Final Stipulated Judgment required Technichem to:

- Close its facility and implement facility corrective action [¶15];
  - Submit a site investigation work plan to DTSC that investigates areas on and around the facility that were potentially impacted by Technichem's operations [¶5(a)];
  - Implement the Facility Closure Workplan within 14 days of DTSC's approval of the Workplan [¶5(c)];

- Submit an amended closure plan that will address closure of the facility, as well as any other areas needing remediation as identified by the work plan results [¶5(d)]; and
  - Submit to DTSC proof of adequate financial assurance for closure within 30 days of DTSC's approval of Technichem's amended closure plan [¶5(f)].

Exhibit 4: DTSC News Release (January 8, 2004)

8 DTSC issued a news release about the Court's approval of the Stipulated Final  
9 Judgment, which required Technichem to cease operations and to investigate and clean  
10 up the contamination.

12       3. Despite the enforcement actions and the Stipulated Final Judgment,  
13 Defendants have not completed the investigation and cleanup on the Property. Plaintiffs  
14 filed this action in federal court to compel Defendants to complete the investigation and  
15 cleanup of the Property, pursuant to Defendants' contractual obligations under the lease,  
16 and pursuant to federal environmental statutes which explicitly authorize such lawsuits  
17 and explicitly provide for injunctive relief, recovery of costs, and attorneys' fees as  
18 statutory remedies.

20 I declare under penalty of perjury under the laws of the State of California that  
21 the foregoing is true and correct, and that this declaration was executed on November 9,  
22 2007 in Oakland, California.

WACTOR & WICK LLP  
By:   
WILLIAM D. WICK  
Attorneys for Plaintiffs  
Virginia Pellegrini, and  
Virginia Pellegrini, Trustee of the Mario J.  
and Virginia E. Pellegrini Trust